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July 21, 2020

Via Electronic Mail

Mr. Patrick Fahn
Public Utility Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
pfahn@nd.gov
ndpsc@nd.gov

In re: Wilton Wind Energy I, LLC
Wilton I Wind Energy Center
Response to Notice of Non-Compliance
Case No. PU-10-102
Our File No. 035218-000023

Dear Mr. Fahn:

Wilton Wind Energy I, LLC (“Wilton Wind I”)¹ is in receipt of the Notice of Non-Compliance dated July 14, 2020 in the above-referenced proceeding (“Notice”), related to the requirement in North Dakota Administrative Code (“N.D. Admin. Code”) § 69-09-09-03 for the “owner” of a commercial wind energy conversion facility to “annually file a certificate of operation with the commission for that facility by April first of each year.” Wilton Wind I respectfully submits that it is not in non-compliance with the requirement in N.D. Admin. Code § 69-09-09-03, for the reasons described below. Nevertheless, and to address any question that the Commission or Staff may have regarding the operational status of this facility, enclosed is Wilton Wind I’s certificate of operation for calendar year 2019.

As described in the Notice, the definition of an “owner” that is required to submit a certificate of operation pursuant to this requirement is defined in N.D. Admin. Code § 69-09-09-01(9) as:

¹ As provided for in Wilton Wind I’s July 1, 2020 decommissioning filing (PU-10-102, Docket No. 22), Wilton Wind Energy I, LLC owns and operates the Wilton I Wind Energy Center which was formerly owned and operated by NextEra Energy Resources, LLC’s indirect, wholly-owned subsidiary FPL Energy Burleigh County Wind, LLC.

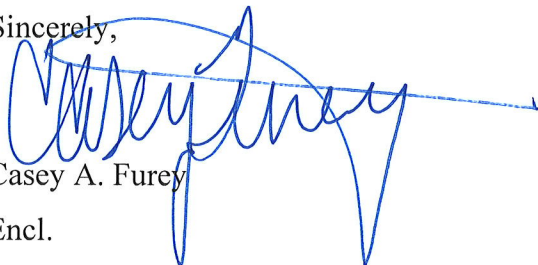
“Owner” means a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22, or if no certificate was issued, a person who owns a facility or part of a facility.

The underlined language included in this definition was recently added to § 69-09-09-01(9), in Case No. PU-19-291, which amendment was effective July 1, 2020. Therefore, prior to July 1, 2020, the “owner” of a facility that was required to file a certificate of operation was defined only to include “a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22.”

Wilton Wind I owns the Wilton I Wind Energy Center in Burleigh County, North Dakota. This wind facility did not previously receive a certificate of site compatibility under North Dakota Century Code (“NDCC”) chapter 49-22. Thus, at the time that the annual certificate of operations filings for 2019 were due on April 1, 2020, the requirement to submit such certificate did not apply to Wilton Wind I. Furthermore, the July 1 amendment is not retroactive in nature and does not require Wilton Wind I to submit filings for periods of time in which it was not otherwise subject to the provisions of N.D. Admin. Code Ch. 69-09-09. Accordingly, Wilton Wind I submits that it is not out of compliance with the requirements in N.D. Admin. Code § 69-09-09-03.

However, in order to address any questions that the Commission or Staff may have regarding its operations, Wilton Wind I provides the attached certificate of operation for calendar year 2019. Wilton Wind I is available to provide any further information that the Commission or Staff may require. Please do not hesitate to contact me with any additional questions.

Sincerely,

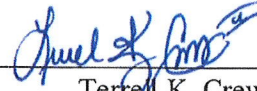


Casey A. Furey

Encl.

cc: Tracy Davis (via email)
Brian Johnson (via email)
Patrick Fahn (via email)
Adam Renfandt (via email)

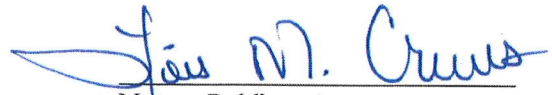
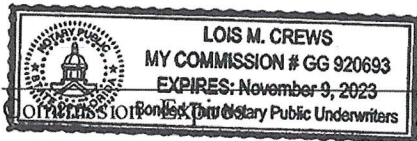
Dated this 21st day of July 2020.



Terrell K. Crews II
President
Wilton Wind Energy I, LLC

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

On this 21st day of July 2020, before me personally appeared Terrell K. Crews II, known to me to be a representative of Wilton Wind Energy I, LLC, that is described within and executed, and acknowledged to me that such limited liability company executed the same.



Lois M. Crews
Notary Public